

**MINUTES OF THE CITY PLANNING COMMISSION
J. MARTIN GRIESEL ROOM**

October 15, 2004

9:00 A.M.

PRESENT: *Appointed Members:*

Don Mooney, Terry Hankner, Caleb Faux, and Jim Tarbell

Community Development and Planning Staff:

Margaret Wuerstle, Virginia Vornhagen, Katherine Keough-Jurs, and
Steve Briggs

Law Department:

Dotty Carman and Julia Carney

CALL TO ORDER

Mr. Mooney called the meeting to order.

Mr. Mooney told the assembled group that he would be leaving at about 9:50 a.m.

Ms. Hankner asked Margaret Wuerstle to write a letter to the Mayor requesting another appointment for the Planning Commission. All members concurred.

MINUTES

Minutes for the October 1, 2004 meeting were presented for approval:

Motion:	Ms. Hankner moved approval of October 1, 2004 minutes
Second:	Mr. Faux
Vote:	All ayes (4-0), motion carries.

CONSENT ITEMS

ITEM #1 -- a request from property owner Mr. John Donaldson, Shanglo, LLC to have the zoning designation on his building at Hamer St. and Back St. designation returned to ML.

ITEM #2 -- a report and recommendation on a sale of City-owned property (a portion of CPP#238-4-14) at the Center Hill redevelopment site in Winton Hills to Water Quality Systems, Inc.

ITEM #3 -- a report and recommendation authorizing the City Manager to enter into a Second Amendment to the Lease Agreement for Private Redevelopment (as Revised by the First Amendment), made by and between the City of Cincinnati (the "City") and Race Street Development, Ltd., an Ohio Limited Liability Company (the "Redeveloper") to clarify the time period for Redeveloper's completion of Contingencies that must be satisfied by the Redeveloper or waived by the City and/or the Redeveloper as a precondition to the commencement of the Term of the Lease Agreement for the City-owned property located at Fifth and Race Streets in Cincinnati, Ohio.

ITEM #4 -- a report and recommendation on a Plat of Subdivision, Record Plat, for the Woodcrest Park Subdivision – Phase Two located southwest of the Queen City Avenue and Sunset Avenue intersections in the West Price Hill and Westwood neighborhoods.

ITEM #6 – a report and recommendation on a Subdivision Improvement Plan for the Villages of Daybreak Subdivision – Phase One located southwest of Seymour Avenue, north and south of Rhode Island Avenue and east of Langdon Farm Road in the neighborhood of Bond Hill.

Mr. Mooney asked Mr. Kembler and Mr. Hobeler if they supported Item #6 since each had submitted a speaker's card to the Planning Commission. Mr. Kembler and Mr. Hobeler both responded that each agreed with Item #6, therefore Mr. Mooney stated it could be added to the list of consent items.

Motion: Ms. Hankner moved approval of Consent Items #1, 2, 3, 4 and 6
Second: Mr. Faux
Vote: All ayes (4-0), motion carries.

DISCUSSION ITEMS

ITEM #11 -- A report and recommendation on a draft Urban Renewal Plan for Marburg Square in the neighborhood of Oakley, west of Marburg Avenue, north of Wasson Road and east of Eastern Hill Lane.

Mr. Mooney requested that Item #11 on Marburg Square in the neighborhood of Oakley be presented at this time. Steve Briggs, staff planner, stated that his findings were the result of discussions with the architects in the Department of Transportation and the Law Department. The site acquisition that has already occurred, the unity of ownership and the demolition has removed the blight from the property and the study area is substantially prepared for redevelopment at this location. Staff, therefore, recommends that the Planning Commission not accept the Marburg Urban Renewal Plan.

Mr. Mooney questioned Mr. Briggs on whether this would have been approved if it had been requested earlier, before the site preparation had been started. Mr. Briggs responded that it is conceivable that the buildings were blighted, but since so much demolition had already been completed it is difficult to determine after the fact. Mr. Briggs also said that there were some buildings still standing, but very few. Therefore, the Staff Report conclusion did not recommend acceptance of the draft on the Marburg Square Urban Renewal Plan dated September 2004.

Mr. Robert E. Manley of Manley Burke, law firm, came to the speaker's table on behalf of the Ackermann Group and introduced Mr. Dobbs Ackermann the person in charge of this Marburg Square project. He invited Mr. Ackermann to give some history on the Renewal Plan. Mr. Manley said he would also introduce Mr. Paul Culter of Edwards, Kelcey the company that prepared the blight study, to summarize his findings.

Mr. Dobbs Ackermann distributed photos of the Marburg Square area to the Planning Commission that depicted the area before and after demolition. In 2002, the company came to an agreement with the owners of the property which consists of approximately 4.5 acres. During the summer of 2002, Mr. Ackermann explained that the Planning Department, the Mayor and City Council were contacted and they directed his company to proceed with the project with direction from the City Manager, Valerie Lemmie. The Ackermann Group was directed by the City Council to develop a PUD through the zoning process and a TIF District for funding infrastructure improvements to the development. The City Manager told the Ackermann representatives to use the services of Mr. Scott Stiles on the process to develop the TIF District. The Ackerman representatives were agreeable, and per Mr. Stiles' instruction went to the Community Development Department regarding the procedures to enable the company to get the necessary funding.

Between July 2002 and June 2003 the company worked with the Community Development Department to design a plan that would be acceptable. The Ackerman representatives felt that progress was being made and in the summer of 2003 the Planning Commission and City Council passed the PUD and zoning changes

for the development. Between the summer of 2002 and September 2003 an enormous amount of opposition was presented from the Community Development Department on using public funds on this development.

Mr. Ackermann stated because of that opposition the Greater Cincinnati Port Authority was contacted and the Ackermann Group was directed by the Mayor in September to move this project from the Community Development Department to the Greater Cincinnati Port Authority to develop the TIF funding for their Marburg Square Urban Renewal Plan. By December 2003, the Port Authority had approved the use of funds on this project. Between January and May of 2004 the Ackermann Group worked with the Port Authority on the specifics of details in the use of these funds and the legal agreements that would be necessary. In May 2004, Mr. Ackermann felt that just about all the details had been addressed. An enormous amount of complaints were coming in from the neighborhood because the vacant buildings were thought to be a detriment to the community. Therefore, the Ackerman Group chose to move forward with demolition on this property.

As agreements were being finalized in June 2004 the Port Authority presented a concern regarding a certain statute of the law that the Ackermann Group was operating under regarding the use of public funds. The concern was due to a number of court cases over the aspect of public dollars and projects. The Port Authority urged the Ackerman Group to take a more conservative approach to the use of these funds and the statute of the law under which they were operating. Because of the Port Authority's concern on the use of these funds, the Ackerman Group chose to switch statutes of law under which to operate.

The result of this change meant that the Group had to go back to Community Development and ask that an urban renewal plan and blight study be completed. At that time, the Ackermann Group ceased demolition and began to work with Oren Henry on going through an urban renewal process and a blight study. A private consultant, Edwards & Kelcey, was hired to produce a blight study.

The Ackermann Group submitted the Urban Renewal boundary study to the Planning Commission in July. The Planning Commission approved this step. Mr. Ackermann explained that the blight study was submitted in August to Community Development for their review. It was at this time, Mr. Ackermann stated, that his company began to see that the reaction from the Community Development Department had become negative. The negative reaction was directed at the use of the public funding for the project, rather than at the blight study as prepared. Mr. Ackermann explained the use of the Port Authority funds seemed to be driving the negative reaction.

After another meeting with the City, Mr. Ackermann stated that they were told to submit the report from the perspective of previous conditions of blight. This report was issued in that manner. At that time communication with the City became very quiet. Mr. Ackermann said that his company made a number of requests for City documents and reports, but Community Development wasn't responsive. There were a few conversations between the Ackerman Group and Community Development, but the conversations were very limited. Mr. Ackermann then explained that there had been three scheduled meetings with the Planning Commission, and his company was ready to attend, but the meetings were cancelled. The most current letter from the City was noted as being sent last Wednesday. The letter did not indicate what should be submitted. It simply indicated the staff would recommend that the Planning Commission not accept the blight study as submitted.

The expectation of the Ackermann Group was that the process would be run under the typical protocol, in which staff would provide recommendations on how to proceed. The Planning Commission is our last hope of direction, explained Mr. Ackermann. Mr. Ackermann said that assemblage of homes and costs have exceeded about \$700,000 per acre and that is why public funding is needed to move this type of project forward.

Mr. Manley then asked Mr. Paul Culter to come forward to say a few words on the blight study that Edwards and Kelcey had produced. Mr. Paul Culter of Edwards and Kelcey stated that they were hired by the Ackermann Group in June of 2004 to conduct a blight study on the Marburg Square site. Representatives of Edwards and Kelcey went out to the Marburg Square site on June 25, 2004 with two assessors and evaluated the property on its blighted conditions, as it existed on June 25, 2004. Mr. Culter explained many of the structures had been demolished at the time. However many of the structures still remained intact at the Marburg site.

The blight criterion of Chapter 725 of the Cincinnati Municipal Code was followed using Edwards & Kelcey's interpretation. Within the study area they found that 85% of the structures exhibited blighted conditions. Therefore, his company representatives believed the area to be blighted due to age of structures, obsolescence of structures, unsafe conditions, dilapidation and deterioration. Mr. Culter noted that after the City reviewed their initial report in August; his company was told the initial report would be denied.

The City asked Edwards and Kelcey to go back and review some historical blighting conditions. Mr. Culter said that the information was not available, so they contacted the Cincinnati Police Department which reported 92 runs over a 5-year period. The Cincinnati Fire Department reported 50 runs in the 24-dwelling unit area. Edwards and Kelcey representatives also studied affidavits from insurance companies. Some insurance companies had refused coverage. The report shows that 81% of the partial structures within the study area did exhibit blighted conditions.

Mr. Manley, of the Manley Burke law firm, explained that the reason for the blight study under the Ohio revised code #57094.41 was that the code required a blight study for the Port Authority to issue TIF financing. That code does not require a blight study to be prepared before any demolition takes place. Mr. Manley also stated that he is not aware of any law that states a blight study must be done before any demolition.

Mr. Mooney asked Mr. Manley to address the unity of ownership issue. Mr. Manley stated that perhaps the City was confused between a blight study designed to lay a foundation for urban renewal and a statutory requirement for a blight study to justify TIF financing. Normally, there would be no TIF money without unity of ownership. Mr. Manley explained that this was not an eminent domain case. Mr. Manley pointed out that the definition of blight in the Ohio Revised Code 1728.01 is substantially the same as in municipal ordinances.

Mr. Mooney then questioned Ms. Dotty Carman of the Solicitor's Office on the Planning Commission's authority to allow this urban renewal plan to go forward. Ms. Carman responded that the Planning Commission could overrule the staff's recommendations.

Ms. Hankner stated that the Planning Commission should decide whether it makes sense to go ahead with the presented blight study and Urban Renewal Plan. She further stated that anyone who might be familiar with the area through prior or current site visits could confirm that the area is blighted. Ms. Hankner stated that she would move disapproval of the Staff Report and accept the draft Marburg Square Urban Renewal Plan, Blight Study.

Mr. Mooney also noted that although the staff may be technically correct, the Ackermann Group is now so involved in the process that they should be entitled to go forward. The Community would be best served by the project going forward rather than by putting the project in jeopardy because of the TIF financing.

Mr. Tarbell said that he thought this draft plan was an appropriate use of TIF funds. However, there might be the possibility of using tax abatement instead of TIF funding. Mr. Mooney said that with the

information now available he could support the Urban Renewal Plan, but the City Council could work out whatever alternatives it would like.

Ms. Hankner said that she was prepared to make a motion to disapprove the Staff Report and accept the draft Marburg Square Urban Renewal Plan, Blight Study.

Ms. Hankner made the motion to disapprove the Staff Report and accept the draft Marburg Square Urban Renewal Plan.

Motion:	Ms. Hankner presented the motion
Second:	Mr. Mooney
Vote:	All ayes (4-0), motion carries

ITEM #5 -- a report & recommendation on the final Corryville University Village Urban Renewal Plan.

Mr. Mooney suggested moving to the review of the Corryville University Village Urban Renewal Plan since there were speakers present on this matter. This item was presented by Katherine Keough-Jurs, staff planner. Mr. Mooney felt there had been very little opposition. However, Mrs. Canty had filled out a speaker's card and wanted to present her thoughts.

Mrs. Canty, of Ahrens Street, stated that she has lived in her home in the Corryville area for the past seven years. She explained that lately she has been reading quite a bit of material on the University Village Urban Renewal Plan and what she had read implies that the community was involved. However, this is the first letter she has received from the City. She stated that she had attended a number of community meetings but had only recently learned about this Urban Renewal Plan from other neighborhood members. She had never before personally received an official communication about a meeting regarding the discussion of the University Village Urban Renewal Plan.

Mr. Mooney requested that Ms. Keough-Jurs respond to the remarks of Mrs. Canty. Ms. Keough-Jurs responded that in the planning process, especially in Urban Renewal studies, a communication goes out to the surrounding property owners. In this case, Ms. Keough-Jurs stated, the first letter would have gone out in 2002. Mrs. Canty responded that she had received no previous communication on this subject. Ms. Keough-Jurs then stated that the Community Council lists meeting dates involving the City in their newsletters. Mr. Dan Schinberger would have handled that for the Community Council. Community Development and Planning staff had attended a number of the Community Council meetings, as well as Mr. Clete Benken the consultant on this project. Ms. Keough-Jurs explained that different stakeholders were involved who would have passed the word to others in the neighborhood.

Mr. Paul Ganim, from the Corryville neighborhood, then asked for a quick presentation now, since there were so many representatives from the neighborhood at this meeting. Mr. Mooney explained that the presentation had already been made to the Planning Commission just a few weeks ago. Mr. Mooney suggested that this item could be postponed another two weeks for the benefit of the neighborhood. During the postponement a presentation could be made at a meeting in their area.

Mr. Mooney stated that discussion on this would have to be postponed until the next Planning Commission meeting in November 2004. He again suggested that the neighborhood have another meeting to review the Urban Renewal Plan and then come to the Planning Commission meeting.

Ms. Hankner requested that the Planning Department use the same mailing list as a basis to notify the same people regarding the next meeting at which the Corryville University Urban Renewal Plan would be presented to the neighborhood.

ITEM #10 -- a report and recommendation on a lease agreement with Park Place at Lytle, an Ohio Limited Liability Company, for certain property beneath the Columbia Parkway Viaduct ("Lot A") and to grant an easement over a portion of Hamilton County Auditor's Parcel 84-6-19 for the construction of an elevated vehicle ramp in conjunction with the redevelopment of the Polk Building at 400 Pike Street into 114 residential condominiums.

Mr. Mooney requested moving to Item #10. Mr. Steve Briggs, staff planner, made the presentation on this item. The planning report and a map were presented to the Planning Commission. Mr. Briggs stated that this item was a request for a lease agreement and easement for an entry ramp to the Polk Building with the construction of an elevated vehicle ramp for the residents.

Ms. Hankner wanted to know if the Department of Transportation had been notified. Mr. Briggs responded in the affirmative.

Mr. Mooney asked if Mr. D'Avignon was attending the meeting because he was in favor of this item. Mr. D'Avignon's response was in the affirmative.

Mr. Mooney then requested a motion on this item.

Motion: Mr. Faux moved approval
Second: Ms. Hankner
Vote: All ayes (4-0), motion carries

ITEM #7 -- a report and recommendation on the release of two Mehring Way related easements in favor of the Board of County Commissioners of Hamilton County, Ohio without an estimate of fair market value notwithstanding the provisions of Section 331-1 of the Cincinnati Municipal Code.

Mr. Steve Briggs, staff planner, presented this item. This was a request for the release of two easements along Mehring Way which would be part of the redevelopment of the Cincinnati Riverfront Park to allow the property to be consolidated. Staff recommends approval.

Motion: Ms. Hankner moved approval
Second: Mr. Mooney
Vote: All ayes (4-0), motion carries

ITEM #8 -- a report and recommendation on a Final Development Plan for the Planned Development (PD) District No. 18 at the southwest corner of E. McMillan Street and Highland Avenue in the vicinity of 195 E. McMillan Street within the neighborhood of Mt. Auburn.

Mr. Steve Briggs presented this item. Planned Development District No. 18 is what is called the McMillan Manor in Mt. Auburn. The Planning Commission, Mr. Briggs stated, reviewed this item in June of this year as a concept. Mr. Briggs further stated that an adjustment had been made to the plans to reduce the size from a 10-story building to a 6-story building. Mr. Briggs explained that this project is for a student housing building complex on the south side of McMillan. Mr. Briggs stated that this project will be privately developed.

Ms. Hankner wanted verification of the changes presented at this meeting and what was presented in June. Mr. Briggs explained that because of the possible impact on the neighborhood, the project had been scaled down to reduce the number of units. Mr. Briggs explained that once the project is approved, the developer could proceed with the building permit. Staff recommends approval.

Ms. Hankner asked if there had been any opposition from the neighborhood. Mr. Briggs responded there had been no opposition from the neighborhood.

Motion: Ms. Hankner moved approval
Second: Mr. Mooney
Vote: All ayes (4-0), motion carries

ITEM #9 -- a report and recommendation on a Plat of Dedication for Mehring Way and the creation of a temporary access easement connecting existing Mehring Way with the new Mehring Way south of the Great American Ballpark, east of Broadway Avenue and west of Main Street in the Banks subdivision – Phase III Record Plat.

Mr. Briggs presented this item. Mr. Briggs explained that this dedication plat allows for the connection between Broadway and Main Street for the Great American Ballpark. Mr. Briggs reported that all City agencies had reviewed the plat, and it met the subdivision regulations. Staff recommends approval.

Motion: Ms. Hankner moved approval
Second: Mr. Faux
Vote: All ayes (4-0), motion carries

Mr. Mooney suggested postponing the Zoning Code Text Changes until the next meeting and the Commissioners all agreed.

Ms. Hankner stated that notification of the neighborhood property owners is a necessity and over the years she had repeatedly asked for the notification to take place whenever possible and early in the process.

Ms. Wuerstle responded that Ms. Lemmie had asked at the last Planning Commission meeting that the Planning Commission Process and Procedures document be updated and that the mailing notification process will be included in this process document.

ADJOURNMENT

With no further business to consider, the meeting was adjourned.

Motion: Ms. Hankner moved adjournment
Second: Mr. Faux
Vote: All ayes (4-0), motion carries.

Margaret A. Wuerstle, AICP
Chief Planner
Department of Community
Development & Planning

Donald Mooney, Chair
City Planning Commission

Date: _____

Date: _____